

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

In re the Matter of:

Barry Boyer, Complainant

And Concerning:

Amara Andrews, in the Capacity as
Candidate for Amara Andrews 4 CR;

Bret Nilles, in the Capacity as Chair for
Iowa Voter Info, and;

Linn County Democratic Central
Committee, Respondents

FC 2021-09

Order Reprimanding and Issuing a Civil
Penalty to Amara Andrews and Brett
Nilles, and Dismissing for Lack of Legal
Sufficiency Against Linn County
Democratic Central Committee

THIS MATTER comes before the Iowa Ethics and Campaign Disclosure Board this 26th day of May, 2022, to consider the issuance of a reprimand, civil penalty, and dismissal of a formal complaint.

For the reasons that follow, the Board hereby reprimands and fines Amara Andrews, in the capacity as Candidate for Amara Andrews 4 CR, and Bret Nilles, in the capacity as Chair for Iowa Voter Info.

Furthermore, for the reasons that follow, the Board hereby dismisses the complaint against the Linn County Democratic Central Committee for lack of legal sufficiency.

BACKGROUND

Amara Andrews was a candidate for Mayor of Cedar Rapids in the 2021 election. She formed the Amara Andrews 4 CR committee (Andrews committee) on March 17, 2021. On October 2, 2021, the Andrews committee paid \$9,000 to Iowa Voter Info. This expenditure was identified on the campaign disclosure report as a charitable contribution.

At the time of the expenditure, Iowa Voter Info was a newly formed organization. Bret Nilles, Chair of the Linn County Democratic Central Committee (Linn County Democrats), was involved in forming Iowa Voter Info with other members of the Linn County Democrats.

When discussing a potential contribution from the Andrews committee to the Linn County Democrats, a representative of the latter requested the check instead be made out to Iowa Voter Info. The Andrews committee complied with the request but was unaware the contribution was intended to fund a new political action committee (PAC).

On or around October 12, 2021, Iowa Voter Info ordered a mailer advocating against the election of Tiffany O'Donnell as Mayor of Cedar Rapids. The mailer was sent in coordination with the Andrews committee, and they properly reported an in-kind

contribution on the next campaign disclosure report in the amount of \$7,557.23 from Iowa Voter Info.

The mailer was distributed beginning on or around October 22, 2021. It included an attribution statement stating it was “Paid for by Iowa Voter Info” and listed the address of the Linn County Democrats. On October 27, 2021, Iowa Voter Info registered as a PAC with the Federal Election Commission (FEC).

On October 29, 2021, Barry Boyer filed Formal Complaint 2021-09 alleging violations of Iowa Code chapter 68A. FC 2021-09 alleges the Andrews committee violated Iowa Code sections 68A.303 and 68A.405. FC 2021-09 also alleges that Iowa Voter Info violated Iowa Code section 68A.201, 68A.401, and 68A.402.

Following review of FC 2021-09, Board staff contacted Respondents for additional information. Iowa Voter Info informed Board staff that it had registered as a PAC with the FEC. It also explained the address on the mailer was inaccurate because a template from the Linn County Democrats was used and the address was mistakenly unchanged.

On November 5, 2021, Iowa Voter Info refunded the contribution to the Andrews committee in the full amount of \$9,000. On November 17, 2021, the Andrews committee published a correction notice in The Gazette, a Cedar Rapids newspaper, stating:

On October 22, 2021, a mailer was sent to certain Cedar Rapids voters relating to the Cedar Rapids’ mayoral campaign. At the time the mailer was sent it stated “Paid for by Iowa Voter Info” and it had been paid for by an organization called Iowa Voter Info whose address is P.O. Box 2564, Cedar Rapids, Iowa 52406 and whose designated agent is Bret Nilles. Since the time of the mailing Iowa Voter Info has received a refund of the cost of the mailer and the Amara Andrews Campaign for Mayor has paid the printing and mailing cost of the mailer.

ANALYSIS

I. Allegations against the Amara Andrews 4 CR committee

Iowa Code section 68A.303 sets forth restrictions on transfers of campaign funds. Advisory Opinion 2006-01 clarified that a candidate may not make contributions to a PAC from their campaign funds. Although Iowa Voter Info was not registered as a PAC at the time the campaign funds were transferred, it was intended to be a PAC and was soon after registered as such. At no time was Iowa Voter Info a bona fide charitable organization as indicated on the Andrews committee’s campaign disclosure report.

The October 2, 2021, transfer of \$9,000 was impermissible. However, the Andrews committee promptly remedied this violation following notification from Board staff. A copy of the refund check was provided on November 5, 2021, verifying the refund from Iowa Voter Info.

Iowa Code section 68A.405 requires a “paid for by” attribution statement on published materials (including mailers) that are “designed to expressly advocate the nomination, election, or defeat of a candidate for public office.” The attribution statement must

disclose who is responsible for the published material. The Board has clarified, for purposes of attribution, that the responsible party is the person or entity that paid for the published material.

The mailer at issue in this matter stated: "Paid for by Iowa Voter Info." This attribution statement was inaccurate, as it did not properly disclose that it was paid for by the Andrews committee and only listed the name of an organization that had not yet registered as a PAC. The Andrews committee promptly corrected this by publishing a correction notice following notification from Board staff.

II. Iowa Voter Info

Iowa Code section 68A.201 requires that PACs file a Statement of Organization within ten days from the date of its organization. However, PACs registered with the FEC or another state are not required to file a Statement of Organization with the Board. Iowa Voter Info registered with the FEC on October 27, 2021.

Iowa Code sections 68A.401 and 68A.402 set forth the requirements for campaign disclosure reports to be filed with the Board. As noted above, Iowa Voter Info is registered with the FEC and not the Board. Iowa Voter Info was not required to file campaign disclosure reports with the Board.

To the extent that Iowa Voter Info was responsible for the issues related to the impermissible contribution from the Andrews committee and the inaccurate attribution statement, those issues have been remedied.

III. Linn County Democrats

FC 2021-09 alleged that the Linn County Democrats were responsible for violations of Iowa Code chapter 68A because Iowa Voter Info was "created as a shell organization" to hide their involvement in the mailer. There is no evidence to support this allegation.

The circumstances of some persons being involved in both the Linn County Democrats and Iowa Voter Info are insufficient to establish that the former was responsible for the mailer. The attribution statement on the mailer listing the address of the Linn County Democrats was unintentional and does not prove that they were the responsible party.

CONCLUSION

For the aforementioned reasons, we find probable cause to believe the Amara Andrews 4 CR committee violated Iowa Code section 68A.303 by making an impermissible transfer of campaign funds to Iowa Voter Info. We further find probable cause to believe the Amara Andrews 4 CR committee and Iowa Voter Info violated Iowa Code section 68A.405 by including an inaccurate attribution statement on a campaign mailer.

Pursuant to Iowa Administrative Code rule 351-9.4(2), the Board elects to handle this matter by administrative resolution rather than through a contested case proceeding.

IT IS SO ORDERED: In her capacity as Candidate for the Amara Andrews 4 CR committee, Amara Andrews is hereby reprimanded and ordered to pay a civil penalty of \$200. In his capacity as Chair of Iowa Voter Info, Bret Nilles is hereby reprimanded and ordered to pay a civil penalty of \$200.

Upon payment of penalties, FC 2021-09 is dismissed as administratively resolved pursuant to Iowa Administrative Code rule 9.4(2).

Pursuant to Iowa Administrative Code rule 9.4(7), persons assessed a civil penalty through an act of administrative resolution may appeal the decision by requesting, within 30 days of the date of the correspondence informing the person of the Board's decision, a contested case proceeding to be held under the process set out in the Board's administrative rules.

BY DIRECTION AND VOTE OF THE BOARD:



James Albert, Chair
Elaine Olson, Vice Chair
Jonathan Roos
Mary Rueter
Daniel Jessop
Leah Rodenberg

SUBMITTED BY:

Zachary S. Goodrich, Executive Director and Legal Counsel

CERTIFICATE OF MAILING

This document was sent by electronic mail on this 27th day of February, 2022, to:

Barry Boyer, Complainant
Amara Andrews, Respondent
Brett Nilles, Respondent